Translator Regulation Poses Threat to Localism and Diversity

The operation and regulation of translator radio service greatly impacts the ability of ordinary Americans to communicate across public airwaves through LPFM. The translator licensing system was originally designed in 1970 to help a full power station fill-in the coverage that was blocked by hills and other topographical features that prevent full power stations from reaching their full city of license. Technically, translators are very similar to LPFM stations, in that they can be located on many of the same potential frequencies. The major difference between LPFM stations and translators is that translators are designed to extend the reach of another station and cannot originate their own programming, whereas LPFM stations must originate their own programming (and in many cases LPFM stations must transmit locally-originated programming).

Translators are now being used, however, as a tool to dominate control of the airwaves. A loophole exists in the current rules, which allows noncommercial translators to be fed by satellite. Therefore, these stations are not extending the reach of a local station, rather, they are receiving far distant signals and transmitting them in a local area. Commercial translators, in contrast, must receive their inputs over the air, and therefore they are limited to expanding a local signal in a local area. There is currently no limit on the number of translators that an applicant can own.

Unfortunately, the exception for noncommercial translators has lead to abuse. These organizations are able to use the satellite-fed translators to gain an exceptional share of the airwaves. The combination of no ownership limits and no obligation for a local connection means that certain organizations have used the loose rules regarding translators to build gigantic radio empires. A conflict arises between these two services because low power radio and translators compete for the same spectrum. When allocating frequencies, translators are essentially on par with LPFMs, on a first-come, first-serve basis. Every new translator that does not originate local programming takes the place of a potential LPFM station that is rooted in its community and that will originate local programming.

In March of 2003, the Commission opened a window for applications for translator licenses. While the Commission's decision to open a translator window was well-intentioned, the outcome has been disastrous for LPFM and for localism. The translator window opened in the major cities before a full LPFM window opened, with the result that many potential frequencies for LPFMs have already been applied for. The applications filed this year will eliminate virtually all opportunities for new LPFM stations in the top-25 markets in the U.S.

The attachment to this brief provides a rough estimate of the impact of the translator window.[1] *In the 51 cities studied, only 4 channels remained available out of*

[1] While the chart is not a rigorous scientific analysis, it shows the general impact of the translator applications with accuracy. The chart was prepared using the FCC' s projected spectrum availability numbers from Appendix D of the original LPFM NPRM, and research from REC's top 1000 LPFM cities website. *See* http://www.recnet.com/. It is important to note that these cities are not the top 50 cities in population, but they were the cities chosen for study by the FCC in 1999. It is also important to note that the two charts use different grid methodologies for

the 279 that the FCC predicted would be available in 1999. While a few of these can be explained by major changes to facilities of full power broadcasters, the vast majority of the now unusable slots are the result of translator applications. Additionally, it is important to note that applications are not being filed by members of the community, but instead by organizations applying for large quantities of translator licenses. Of the 13,000 translator applications received by the Commission this spring, *over 50 percent have been submitted by just 15 organizations—one applicant, the Radio Assist Ministry, submitted 2454 applications.*

LPFM Advocates therefore request the Commission to reassess the interaction between its translator policies and LPFM. LPFM Advocates urge the Commission to adopt policies that will promote localism. One point bears emphasis. With or without LPFM, new services will be installed in thousands of locations in the United States. The question is whether these new services will be offered by local entities with connection to their communities, or by organizations that own vast numbers of outlets essentially offering a national radio service exploiting an exception for noncommercial translators.

- Give locally controlled and operated LPFM stations priority over distant translators. One possible definition for "distant translator" is that recommended by REC networks: a distant translator is any translator that is more than 400 kilometers and in a different state from the originating signal. *See* http://www.recnet.com/fcc/.
- Grant UCC, *et al.*'s petitions for reconsideration to tighten the LPFM rules so that only truly local organizations can apply.
- Allow low power stations to apply under the contour method set forth in the translator rules, giving additional technical flexibility to LPFMs, as recommended in the original LPFM proceeding.

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selecting the spots in a given city to check whether the location meets the spacing criteria. However, the comparison of the results is broadly indicative of the extent to which third adjacent channel translators have eaten into previously unoccupied spectrum that was believed to be usable by LPFM stations in the beginning of the rulemaking.